

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>KAI D. INGRAM,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Civil No. 21-359</b>
	)	<b>Judge Marilyn J. Horan/</b>
<b>v.</b>	)	<b>Magistrate Judge Patricia L. Dodge</b>
	)	
<b>SCI SMITHFIELD, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM ORDER**

This case has been referred to United States Magistrate Judge Patricia L. Dodge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72 of the Local Rules for Magistrate Judges. On June 25, 2021, the Magistrate Judge issued a Report and Recommendation, ECF No. 24, recommending that Plaintiff's Motion for Preliminary Injunction, ECF No. 18, be denied. Plaintiff timely filed Objections. ECF No. 25. The filing of timely objections requires the district judge to "make a de novo determination of those portions of the report . . . to which objection is made." 28 U.S.C. § 636(b)(1); Sample v. Diecks, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); Fed. R. Civ. P. 72(b)(3).<sup>1</sup>

Following a de novo review of the relevant pleadings and documents in this case, together with the Report and Recommendation, and Objections thereto, the Court finds that Plaintiff's Objections do not undermine the recommendation of the Magistrate Judge. Plaintiff Objects to the Magistrate's conclusion that he has not demonstrated a reasonable probability of eventual success in this litigation because his request for preliminary injunctive relief is not cognizable in a section 1983 action. Specifically, the Magistrate Judge determined that

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<sup>1</sup> Plaintiff also raises several issues that were not the subject of the Report and Recommendation and therefore will not be addressed by this Court.

Plaintiff's request for injunctive relief in the form of an order directing that he be immediately released to parole (to a halfway house or other location) is a challenge to "the fact or duration of his confinement," which is not permitted in a section 1983 action. Preiser v. Rodriguez, 411 U.S. 475, 489 (1973). Plaintiff argues that the law cited by the Magistrate Judge is inapplicable here because he is not challenging his original state conviction sentence or his 12 ½ to 25 year resulting sentence. However, Plaintiff is seeking to invalidate the duration of his current confinement by requesting "an injunction compelling speedier release . . . that necessarily implies the unlawfulness of the State's custody." Wilkinson v. Dotson, 544 U.S. 74, 81 (2005). Therefore, his request for preliminary injunctive relief is not cognizable in this action. Plaintiff's Objections are overruled, and the Report and Recommendation will be adopted as the Opinion of the Court.

Accordingly, the following order is entered:

AND NOW, this 20th day of July 2021, it is hereby ORDERED as follows:

The Magistrate Judge's Report and Recommendation, ECF No. 24, dated June 25, 2021, is adopted as the Opinion of the Court. IT IS FURTHER ORDERED that Plaintiff's Motion for Preliminary Injunction, ECF No. 18, is DENIED.

This matter is referred back to the Magistrate Judge for further proceedings.

s/Marilyn J. Horan  
Marilyn J. Horan  
United States District Judge